

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATHRYN A. POWELL
1550 Hazelton Avenue
North Port, FL 34286

Registered Nurse License No. 342745

Respondent

Case No. 2012-756

OAH No. 2012070808

ORDER CORRECTING CLERICAL ERROR IN
"EFFECTIVE DATE" PORTION OF THE
DECISION AND ORDER

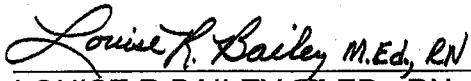
On its own motion, the Board of Registered Nursing (hereafter "Board") finds that there is a clerical error in the "order and effective date" portion of the Decision and Order page in the above-entitled matter and that such clerical error should be corrected so that the order date and effective date will conform to the Board's intention.

IT IS HEREBY ORDERED that the order date and the effective date contained in the Decision and Order in the above-entitled matter be and is hereby amended and corrected nunc pro tunc as of the date of entry of the Decision and Order to read as follows:

"This Decision shall become effective on May 16, 2013."

"IT IS SO ORDERED April 16, 2013."

IT IS SO ORDERED this 18th day of April, 2013.



LOUISE R BAILEY M.ED., RN
EXECUTIVE OFFICER
BOARD OF REGISTERED NURSING
STATE OF CALIFORNIA

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATHRYN A. POWELL
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Case No. 2012-756

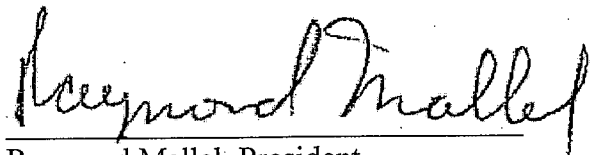
OAH No. 2012070808

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

~~This Decision shall become effective on April 16, 2013.~~

~~IT IS SO ORDERED May 16, 2013.~~



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KATHERINE MESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **KATHRYN A. POWELL**

12 1550 Hazelton Ave.
13 North Port, FL 34286

14 Registered Nurse License No. 342745

15 Respondent.

Case No. 2012-756

OAH No. 2012070808

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order for
20 Public Reproval which will be submitted to the Board for approval and adoption as the final
21 disposition of the Accusation.

22 **PARTIES**

23 1. LOUISE R. BAILEY, M.ED., RN ("Complainant") is the Executive Officer of the
24 Board of Registered Nursing. She brought this action solely in her official capacity and is
25 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
26 Katherine Messana, Deputy Attorney General.

27 2. Respondent Kathryn A. Powell ("Respondent") is represented in this proceeding by
28

1 attorney Fredrick M. Ray, whose address is:

2 Fredrick M. Ray, A Professional Corporation
3 Attorneys at Law
4 1100 West Town and Country Road
5 10th Floor, Suite 1010
6 Orange, California, 92868

7 3. On or about April 30, 1982, the Board of Registered Nursing issued Registered Nurse
8 License No. 342745 to Kathryn A. Powell. The Registered Nurse License was in full force and
9 effect at all times relevant to the charges brought in Accusation No. 2012-756 and will expire on
10 June 30, 2005, and has not been renewed.

11 JURISDICTION

12 4. Accusation No. 2012-756 was filed before the Board of Registered Nursing
13 ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The
14 Accusation and all other statutorily required documents were properly served on Respondent on
15 June 25, 2012. Respondent timely filed her Notice of Defense contesting the Accusation. A copy
16 of Accusation No. 2012-756 is attached as Exhibit A and incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 5. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 2012-756. Respondent has also carefully read, fully
20 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
21 Order for Public Reproval.

22 6. Respondent is fully aware of her legal rights in this matter, including the right to a
23 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
24 her own expense; the right to confront and cross-examine the witnesses against her; the right to
25 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
26 compel the attendance of witnesses and the production of documents; the right to reconsideration
27 and court review of an adverse decision; and all other rights accorded by the California
28 Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-756.

9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 342745 issued to Respondent Kathryn A. Powell (Respondent) shall, by way of letter from the Board's Executive Officer, be publicly reprovved. The letter shall be in the same form as the letter attached as Exhibit B to this stipulation.

IT IS FURTHER ORDERED that pursuant to Business and Professions Code section 125.3, Kathryn A. Powell shall reimburse the Board for its costs of investigation and enforcement in the amount of \$1,335.00. The Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew her Registered Nurse License until Respondent pays costs in full.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reproval and have fully discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 2-4-2013

Kathryn A. Powell
KATHRYN A. POWELL
Respondent

I have read and fully discussed with Respondent Kathryn A. Powell the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reproval. I approve its form and content.

DATED: 2/5/2013

Fredrick M. Ray
Fredrick M. Ray
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General

Katherine Messana
KATHERINE MESSANA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-756

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KATHERINE MESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-756

13 **KATHRYN A. POWELL AKA KATHRYN**
14 **ALBERTA POWELL**

ACCUSATION

15 7431 Quarry Street
16 Engelwood, FL 34224

17 Registered Nurse License No. 342745

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about April 30, 1982, the Board of Registered Nursing issued Registered Nurse
24 License Number 342745 to Kathryn A. Powell aka Kathryn Alberta Powell ("Respondent"). The
25 Registered Nurse License expired on June 30, 2005, and has not been renewed.

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1 (a) Unprofessional conduct, which includes, but is not limited to, the
2 following:

3 (4) Denial of licensure, revocation, suspension, restriction, or any other
4 disciplinary action against a health care professional license or certificate by another
5 state or territory of the United States, by any other government agency, or by another
6 California health care professional licensing board. A certified copy of the decision
7 or judgment shall be conclusive evidence of that action."

8 **COST RECOVERY**

9 9. Section 125.3 of the Code provides, in pertinent part, that the
10 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
11 have committed a violation or violations of the licensing act to pay a sum not to exceed the
12 reasonable costs of the investigation and enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Disciplinary Action by Other States)**

15 10. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of
16 the Code in that Respondent was disciplined by the Oregon State Board of Nursing ("Oregon
17 Board") and the State of Florida Department of Health ("Florida Board"), as follows:

18 11. On or about September 16, 2009, the Oregon board ordered that the Stipulation for
19 Reprimand, signed by Respondent on August 24, 2009, be approved and adopted. As a result,
20 Respondent was reprimanded for her conduct. The conduct underlying the disciplinary action is,
21 as follows:

22 a. On or about July 13, 2009, Respondent submitted a Physician's Statement and
23 Mantoux Tuberculosis Skin Test ("PDD") form to Cross Country Travcorps ("CCT") a nurse
24 staffing agency, attesting that she had a physical examination conducted by treating physician,
25 J.B., on February 11, 2009.

26 b. The physical and the PDD were done in 2004.

27 c. CCT required documentation of a recent physical conducted by a licensed
28 medical provider as a condition of employment.

d. On or about June 29, 2009, the Board opened an investigation regarding
allegations that Respondent falsified her health physical form and her PDD record.

e. During a telephone interview with Board staff on August 12, 2009, Respondent said that she was in the process of applying for a new job with an agency and they required a current health physical form and a PDD prior to hiring her. Licensee said that she had just moved to Florida after a long period of unemployment and was in a hurry to obtain a job due to her current financial situation. Respondent did not have the money or the time to obtain a health physical by a physician and obtain a PDD. She admitted to falsification of the documents. Respondent used white out to change the date on the forms. Respondent admitted that she did "something stupid."

12. On or about July 13, 2010, the Florida Board entered a Final Order in the disciplinary matter entitled *Department of Health v. Kathryn Alberta Powell*. The Final Order approved and adopted the settlement agreement which reprimanded Respondent for her actions and ordering Respondent to pay an administrative fine in the amount of \$500.00 and investigation costs. The circumstances underlying the disciplinary action are described in paragraph 10, subdivisions (a) through (e) above, inclusive and herein incorporated by reference.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

13. Respondent is subject to disciplinary action under section 2761, subdivision (a) on the grounds of unprofessional conduct in that Respondent falsified her PDD that she submitted to CCT. The falsification is described in paragraph 11, subdivisions (a) through (e) above, inclusive and herein incorporated by reference.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 342745, issued to Kathryn A. Powell aka Kathryn Alberta Powell;

2. Ordering Kathryn A. Powell aka Kathryn Alberta Powell to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

June 25, 2012

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit B

Letter of Public Reproval in Case No. 2012-756



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 | www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



April 16, 2013

Kathryn A. Powell
1550 Hazelton Ave.
North Port, FL 34286

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Kathryn A. Powell, Registered Nurse License No. 342745

Dear Ms. Powell:


On June 25, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your Registered Nurse License. The Accusation alleged that you engaged in unprofessional conduct under Business and Professions Code 2761, subdivision (a)(4), for license discipline in another state and section 2761, subdivision (a) for unprofessional conduct.

The circumstances underlying the allegations in the Accusation are that on or about September 16, 2009, the Oregon State Board of Nursing ("Oregon Board") approved and adopted a Stipulation for Reprimand. The circumstances underlying the Oregon Board's action are that on or about July 13, 2009, you submitted a Physician's Statement and Mantoux Tuberculosis Skin Test ("PDD") form to Cross County Travcorps ("CCT"), a nurse staffing agency, attesting that you had a physical examination conducted by a treating physician on February 11, 2009. However, the physical and PDD were done in 2004. CCT required documentation of a recent physical conducted by a licensed medical provider as a condition of employment. On or about July 13, 2010, the State of Florida Department of Health approved and adopted a settlement agreement which reprimanded you for your conduct and ordered you to pay an administrative fine in the amount of \$500.00 and investigative costs.

Taking into consideration that the conduct was an isolated incident that occurred approximately four (4) years ago, that the disciplinary actions by the Oregon Board and the Florida Board were limited to public reprimand, that you have been licensed since April 30, 1982, without prior discipline and that there are other mitigating circumstances in this case that support the determination that you are safe to practice registered nursing, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,


LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California